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C O N F I D E N T I A L SAN SALVADOR 001383

SIPDIS

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TAGS: [PREL](#) [PGOV](#) [KJUS](#)
SUBJECT: FBI DIRECTOR PRESSES SALVADORANS ON ELECTRONIC
SURVEILLANCE

Classified By: The Ambassador for reasons 1.4 (b) and (d)

¶1. (C) Summary: FBI Director Mueller's visit reinforced Post's efforts to push electronic surveillance legislation through the Salvadoran Legislative Assembly. Legislative, Executive and Judicial branch interlocutors agreed on the need to make this important tool available to Salvadoran law enforcement authorities and pledged to move forward. Salvadoran Law Enforcement and Justice officials praised close FBI cooperation with Salvadoran law enforcement authorities. President Sacca noted his close relationship with President Bush, thanked the FBI for close cooperation, and blamed the opposition for the impasse over electronic surveillance. End Summary.

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Pushing Forward on Electronic Surveillance
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¶2. (C) FBI Director Mueller visited San Salvador December 9-10. The focus of the Director's advocacy during his visit was to reinforce Post's efforts to push electronic surveillance legislation through the Salvadoran Legislative Assembly.

¶3. (SBU) Background: Currently, the Salvadoran Constitution prohibits monitoring private communications of any kind, though in practice the courts have allowed for wiretaps when one party consents (e.g., extortion cases.) A constitutional amendment passed a first vote with a simple majority during the previous Assembly that would allow telephone intercepts. To take effect, that amendment must be ratified by the current Assembly (which runs through April 2009) by a two-thirds majority. The (left-wing) FMLN was not consulted on and did not support the pending amendment and has indicated it will not vote to ratify the amendment. (Note: The amendment cannot be ratified without at least some FMLN support.) The two principal parties, the FMLN and (pro-U.S., center-right) ARENA, have privately indicated to Emboffs their willingness to draft a compromise amendment accompanied by implementing legislation, with a goal of passing the amendment in this Assembly and ratifying after the new Assembly is seated in May 2009.

¶4. (C) During a luncheon with representatives from the Legislative Assembly, Ministry of Public Security, National Civilian Police (PNC), and Attorney General's offices, the Director noted that transnational criminal gangs were the top threat to public security in El Salvador. He went on to note that two key components in any strategy to combat transnational organized crime were extradition and electronic surveillance. The Director illustrated the former by highlighting the positive effect that our robust extradition relationship with Colombia has had in the battle against terrorist and drug trafficking organizations there. The

Director noted that in the U.S. experience, electronic surveillance had proven to be the most effective investigative tool against organized crime. The Director noted El Salvador was the first country he had visited that did not provide electronic surveillance to its law enforcement professionals. Minister for Public Security Rene Figueroa and Attorney General Garid Safie lamented the lack of authority for electronic surveillance and expressed a desire to work with the Legislative Assembly to enact that authority as soon as possible. Safie acknowledged the responsibility such authority would imply and pledged to use that authority in line with enabling legislation.

15. (C) In response to the Ambassador's question on the way forward, ARENA Legislative Assembly Deputies Ernesto Angulo and Guillermo Avila Quehl noted that telephone wiretapping authority could be in place quickly if the pending constitutional amendment were ratified by the present Assembly. FMLN Deputies Benito Lara and Hugo Martinez noted that was one of two options, though they said the amendment currently before the Assembly was unlikely to be approved. They suggested a new amendment that was less restrictive in terms of covered crimes than the pending measure, coupled with special legislation that would provide broader coverage of communications technologies (e-mail, internet telephony, text messaging, etc.) than simple telephone wiretaps. FMLN representatives said they had been working to develop just such legislation with ARENA representatives and with technical assistance from the embassy. The FMLN deputies asserted that a new amendment could be drafted and brought to a vote before regional elections in January 2009 and a vote on corresponding legislation could be taken after the new Assembly is seated in May at the same time the amendment is ratified. ARENA deputies agreed that timeline was possible, and all pledged to work towards allowing wiretaps by mid-2009. Mueller noted that in drafting legislation, Salvadorans would be wise to include all types of 21st century communication tools, which would give them more flexible legislation than that enjoyed by U.S. authorities.

16. (C) Later, in a meeting with Attorney General Safie, the Ambassador, Director Mueller, LEGATT and Judicial Attache discussed electronic surveillance further. AG Safie acknowledged the current ARENA-sponsored proposal before the Assembly was limited in scope, both in terms of crimes subject to wiretapping and communications methods that could be monitored. Mueller noted that, in addition to including all types of electronic communications, it would be useful to require electronic service providers maintain records regarding account usage and account holders. Safie pledged to make every effort to help secure passage of such legislation.

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Public Security Officials Laud U.S.-Salvadoran Cooperation

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17. (C) The Director met with Minister for Public Security Rene Figueroa, Deputy Minister Astor Escalante and Director of the National Civilian Police (PNC) Jose Luis Tobar Prieto. He was accompanied by the Ambassador and LEGATT. The Director thanked the Minister for the excellent working relationship between the Ministry of Security and the FBI and for GOES support for joint initiatives like Transnational Anti-Gang Unit (TAG) and Police Officer Exchange Program. The Director said is very pleased with the recent accomplishments of the TAG and he mentioned the Charlotte case in which 26 MS-13 gang members were indicted, including a gang leader incarcerated in El Salvador. He also said that the FBI will provide its support to the PNC through the TAG in the ongoing investigation of the escaped gang members and hoped for the quick arrest of Saul Turcios aka &El Trece8 and Hugo Arevalo aka &Crazy8. (Note: El Trece was indicted in Maryland in June 2007, for violation of the Federal RICO statute and murder.) Director Mueller also commented on the threat posed by the &Zetas8 to the region as evidenced in recent events in Guatemala. Director Mueller was the key speaker at a public ceremony to inaugurate CAFE/AFIS

fingerprint technology.

18. (C) The Director said that due to the success of the TAG in El Salvador, the TAG would expand regionally to Guatemala and Honduras through the Merida Initiative. The Director commented that AFIS (the Automated Fingerprint Identification System) will enable the PNC to fully identify criminals and will allow the Attorney General's office to use latent fingerprints in their investigations. The Director reiterated that the fight against organized crime would require tools such as electronic surveillance, noting again their effectiveness in the war on terror and the key role played by electronic surveillance in dismantling La Cosa Nostra. Director Mueller also said extradition provisions are necessary to extradite dangerous criminals to the U.S. and also to deter criminals from committing crimes in the U.S. then finding a safe haven in El Salvador. He noted he was in Bogota the previous day where Colombian police said drug traffickers are changing their strategy and are now shipping drugs to Africa and Europe due to fear of extradition to the U.S.

19. (C) Figueroa thanked the Director for his visit, the first by an FBI Director to El Salvador. He praised the close working relationship developed with the FBI and its support for the TAG. He lauded the key role the International Law Enforcement Academy (ILEA) has played in training PNC officers and other police officers within the region. PNC Director Tobar Prieto noted the significant accomplishments of the TAG in a short period of time. He emphasized the joint investigations such as the one in Charlotte in which he directly participated and offered his continued support of the TAG and the Police Officer Exchange.

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President Sacá Praises Cooperation, Warns of FMLN Victory

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10. (C) The Director, accompanied by the Ambassador and LEGATT, met with Salvadoran President Elias Antonio "Tony" Sacá Gonzalez. The Director thanked President Sacá for El Salvador's continued support in Iraq and expressed his condolences for the five casualties sustained there by the Cuscatlan Battalion. Director Mueller also applauded GOES efforts to fight transnational crime associated with gangs and the support of his government to the joint initiatives between the PNC and the FBI, noting FBI support for the TAG with the assignment of two permanent agents. He pledged ongoing support, via FBI Agents assigned to the TAG, in the investigation of the two dangerous MS-13 gang members who escaped custody last week.

11. (C) The Director commented on the need for electronic surveillance legislation to combat organized crime and mentioned that El Salvador was the first country that he had visited that did not have wire tap legislation. He cited the successes of the FBI's use of electronic surveillance to prevent terrorist attacks and to dismantle La Cosa Nostra. He noted that electronic surveillance was also aided by a working extradition treaty and relationship. The Director congratulated Sacá on the passage of a new Criminal Procedures Code.

12. (C) President Sacá commented on his recent trip to Los Angeles, where he met with Mayor Villaraigosa, and to Houston. He said the trip was to bring awareness of the Temporary Protected Status extension to Salvadorans residing in the U.S. He noted his previous meetings with President Bush and that he had developed not only a close working relationship, but also a close friendship. He said his upcoming trip to the U.S. was to bid farewell to President Bush. Sacá attributed the lack of support for electronic surveillance legislation to the FMLN and charged that the FMLN is already tapping his phones and probably Embassy phones, too. He said the FMLN are not friends of the U.S. and that Funes is not a friend either. He said he is convinced Venezuela is funding the FMLN campaign and fears Venezuelan intervention in the next elections. He said he believes in democracy and that if

the Salvadorans elect the FMLN through clean elections he will hand over the presidency in accordance with the constitution.

¶13. (C) Comment: FBI Director Mueller's visit came at an opportune time, as Emboffs have been lobbying party groups in the Legislative Assembly for months to move beyond political posturing and campaigning to move forward on electronic surveillance. Both major legislative groups acknowledge the need for this important law enforcement tool and have indicated their willingness to amend the constitution and pass enabling legislation. A stumbling block has been the fear that whichever party is out of power will be surveilled by the party in power, for political, not criminal, purposes. We will continue our efforts to encourage progress.

¶14. (U) FBI HQ has cleared this message.
GLAZER